

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

JONATHAN SANDLER,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 08-3030-CV-S-RED-H
MARTY ANDERSON, Warden,)	
)	
Respondent.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition herein for a writ of habeas corpus and has submitted to the undersigned a report and recommendation that the petition for a writ of habeas corpus be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the Magistrate in which he continues to assert that the Bureau of Prisons [“BOP”] is refusing to consider him for home confinement, that it is requiring him to obtain health insurance prior to being placed in home confinement in violation of the equal protection clause, and is violating the Rehabilitation Act.

Having fully reviewed the record de novo, the Court agrees with the Magistrate that the BOP has not violated petitioner’s constitutional rights. Liberally construing petitioner’s traverse and exceptions, it is clear that he has failed to state an equal protection violation, given that he has not established that he is a member of a protected class within the meaning of the law. Although

petitioner appears to allege that he has been discriminatorily denied the right to be housed in home confinement, this claim presumes that he has an inherent right or “liberty interest” in being released early. Given that release to home confinement pursuant to 18 U.S.C. § 3624(c) is entirely at the BOP’s discretion, the premise of petitioner’s allegations is faulty. The BOP has no obligation to place an inmate in home confinement. Elwood v. Jeter, 386 F.3d 842, 847 (8th Cir. 2004). Therefore, the Court agrees with the Magistrate’s conclusions that petitioner’s claims are without merit.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. It is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, considered and overruled. It is further

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr

RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

Date: July 2, 2008